

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKRafael Fontanez

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

City of New York

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

## I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's Name Rafael Fontanez  
 ID# 12-A-4445  
 Current Institution Attica Correctional Facility  
 Address Box 149  
Attica, New York 14012-0149

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name D. Silverio [Police Officer] Shield # 23765  
 Where Currently Employed 809TH Precinct  
 Address 321 East 5TH Street  
New York, New York 10003

USDC SDNY  
 DOCUMENT  
 ELECTRONICALLY FILED  
 DOC #:  
 DATE FILED: 11.5.2013

AMENDED  
COMPLAINT

under the Civil Rights Act,  
 42 U.S.C. § 1983

Jury Trial: ☒ Yes ☐ No  
 (check one)

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Defendant No. 2	Name _____	Shield # _____
	Where Currently Employed _____	
	Address _____	
	_____	
Defendant No. 3	Name _____	Shield # _____
	Where Currently Employed _____	
	Address _____	
	_____	
Defendant No. 4	Name _____	Shield # _____
	Where Currently Employed _____	
	Address _____	
	_____	
Defendant No. 5	Name _____	Shield # _____
	Where Currently Employed _____	
	Address _____	
	_____	

Who did  
what?

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

\_\_\_\_\_

\_\_\_\_\_

B. Where in the institution did the events giving rise to your claim(s) occur?

\_\_\_\_\_

C. What date and approximate time did the events giving rise to your claim(s) occur?

*On Aug 19, 2010 at Approx 4:35pm Darik being Processed & booked Through Central bookings & Then Transferred To rivers Island & Then released 5 To 6 days later From Court on my 170 day Then 3 months later This Fabricated / Bogus Case was dismissed on "Nov. 30, 2010"*

D. Facts: *On Aug 19, 2010 i was harass, Kidnapped by being Placed in Police Custody For not Committing a Criminal offense, The 90<sup>th</sup> Precinct Illegally Arrested me & Charged me with 2nd 3<sup>rd</sup> menacing resisting Arrest, Obstruction Government Administration 2<sup>nd</sup>, Dis Con, Then Arraigned on resisting Arrest, Obstruction Gov 2<sup>nd</sup>, Attempt Assault 3<sup>rd</sup>, Dis Con, Nov. 30, 2010 The Entire Criminal Case was*

What  
happened  
to you?

Dismissed & not to mention i was Placed on Rikers Island for 5 to 6 long days before being released From the Court house On my 170 day. I was illegally Taken into Custody for Exercising my rights "First Amend" Freedom of Speech, i was at Thomson Square Park minding my Own Business & said out loud in Public & was Petitioning The Government for a redress of Grievance, i only was stating out loud how The City of New York needs To Stop head officials of Violating Our Constitutional rights, right now The City of New York NYPD is in Clear Violation of not only my 4<sup>th</sup> Amend, but now 1<sup>st</sup> Amend As well Cause me Exercising my rights & Also my 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, & 14<sup>th</sup> Amendments rights were Violated in the Process of incident, no one else was involved but The Officer(s) ETC... I was Placed in such a horrible living Place for doing nothing & not only was i stopped & searched for Absolutely nothing & then Thrown To The Ground in Thomson Square Park then Placed Under Mechanical restraints & then Charged with Fabricated/Bogus Charges that were dismissed a few mos later. I dont know why i was stopped & search for, I was never Afforded a drinking cup of water at The 9<sup>th</sup> Precinct Station house & its so Dirty There & Central bookings aint no Different Also Amerc-L-95 Rikers Island is The Worst, i was Forced To Sleep on The Dirty Floor until i was finally housed not to mention The Floors in L-95 are so Dirty with roaches mice ETC in Clear Violation of 8<sup>th</sup> Amendment that Protected by The United-States of America & New York State Constitution!

Was anyone else involved?

Who else saw what happened?

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Cruel & Unusual Punishment(s) Violation(s) of All my health rights Protected by hippo laws hygiene, most disgusting food & service, no drinking cup nor water ETC... increase Amounts of Violence. my Life was Placed in direct Threat(s) of life & death, Also in direct Contact of being Exposed To highly Contagious disease(s) & infections Due To These Fabricated/Bogus Criminal Charges The NYPD Decided To Use Upon me I've Suffered Emotional distress due To The City of New York NYPD Action(s) I've Also Suffered mental Anguish & Loss of liberty as an Experienced a Manifest & Profound loss of liberty During my illegal Confinement To The Dept of Corrections!

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

009th Precinct Station House, Manhattan Central Bookings and Then Amk6/L-95  
Rikers Island!

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes \_\_\_ No ☒ Do Not Know \_\_\_

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes \_\_\_ No ☒ Do Not Know \_\_\_

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes \_\_\_ No ☒

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes \_\_\_ No ☒

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

1. Which claim(s) in this complaint did you grieve?

2. What was the result, if any?

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

# V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). I'm Seeking The Amount of Five million (\$5) dollars For False Arrest & Unlawful Kidnapping, Harassment, menacing Also being impermissible Punished Violation(s) of The New York State Constitution & The Constitution of The United States of America, - These are my rights & They were in Clear Violation(s) of Article 1 Section 5<sup>TH</sup>, 6<sup>TH</sup>, 8<sup>TH</sup>, 9<sup>TH</sup> of The New York State Constitution Also in Clear Violation(s) of 1<sup>ST</sup>, 4<sup>TH</sup>, 5<sup>TH</sup>, 6<sup>TH</sup>, 8<sup>TH</sup>, 11<sup>TH</sup> Amendments of The Constitution of The United States of America Also in Clear Violation(s) of The Universal Declaration of human rights Article 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 18, 19, & 24. my Freedom was Taken away From me Just because i was exercising my rights Under The State of New York & United States Constitution That are Protected. 5 to 10 days of my Freedom were Take from me For exercising my First Amendment "Freedom of Speech" & 4<sup>TH</sup> Amendment Search & Seizures with no Probable Cause, 5<sup>TH</sup> Amendment Violation(s) Police Officer Filing Fabricated / Bogus Criminal Charges base on my Criminal History, 6<sup>TH</sup> Amendment wasn't Afforded to Confront with The officers Who Charged

me not Giving me a Trial, 8<sup>th</sup> Amendment Cruel & Unusual Punishment inflicted Upon me ETC...  
These Police Officers at the 009<sup>th</sup> Precinct Station House are in Clear Violations of All above  
and Contempt of Court For Violating Court orders made by Honorable Judge Shira Scheindlin!

# VI. Previous lawsuits:

On  
these  
claims

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒ No ☐

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Rafael Fontane

Defendants City of New York Dept. of Corr. Comm. Jora B. Shier, Charles A. Cripps

2. Court (if federal court, name the district; if state court, name the county) Southern Dist. of New York

3. Docket or Index number 12 Civ 483 (TFC)

4. Name of Judge assigned to your case Thomas P. Griesa

5. Approximate date of filing lawsuit January 18, 2012

6. Is the case still pending? Yes ☐ No ☒

If NO, give the approximate date of disposition 5.7.12

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) Dismissed

On  
other  
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ☒ No ☐

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Rafael Fontane

Defendants City of New York

2. Court (if federal court, name the district; if state court, name the county) Southern Dist. of New York

3. Docket or Index number 12 Civ 4392

4. Name of Judge assigned to your case Alison J. Nathan

5. Approximate date of filing lawsuit June 8, 2012

6. Is the case still pending? Yes \_\_\_\_ No ✓  
If NO, give the approximate date of disposition Feb. 5, 2013
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) We both reached an Agreement & are Settled

I declare under penalty of perjury that the foregoing is true and correct.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2013.

Signature of Plaintiff

Inmate Number

Institution Address

Paul Fortuny

12-A-4445

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this \_\_\_\_ day of \_\_\_\_\_, 2013, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Paul Fortuny

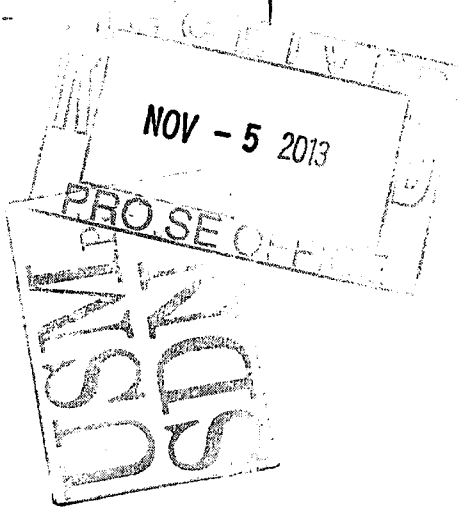
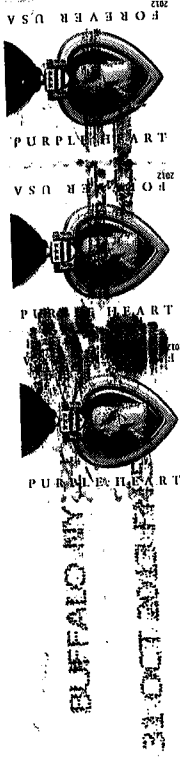


ATTICA CORRECTIONAL FACILITY

BOX 149

ATTICA, NEW YORK 14011-0149

NAME: Rafael Fontanez DIN: 12-A-1446



U.S. District Court  
Southern District of New York  
Pro Se Office  
500 Pearl Street, Room 230  
New York, N.Y. 10007-ATICA CORR FAC

10004X2429

